A.—Sri A. G. RAMACHANDRA RAO (Minister for Law and Education).—

(*a*) No.

(*b*) Does not arise in view of reply to (*a*).

ADJOURNMENT MOTIONS.

Mr. SPEAKER.—Now there are two adjournment motions, one given notice of by Sri S. Gopala Gowda, which runs as follows :

> "That this House do now stand adjourned to discuss a definite matter of urgent public importance and of recent occurrence, *viz.*, the havoc, damage and distress caused to the public on account of the heavy floods in the rivers Tunga, Bhadra and Varada recently."

In view of the debate on the adjournment motions yesterday and the day before yesterday, it is difficult to say that it is a matter of urgency requiring interruption of the appointed business for the day. I therefore have to withhold my consent to this motion.

There is another adjournment motion sent by Sri G. Puttaswami, which is as follows :

> "That this House do stand adjourned to discuss a definite matter of recent occurrence and of public importance, *viz.*, the damages and loss caused by the heavy floods in the malnad areas."

For the same reasons for which I disallowed the other adjournment motion of Sri Gopala Gowda, I have to disallow this motion also.

The debate on the Mysore House Rent and Accommodation Control (Amendment) Bill will continue.

MYSORE HOUSE RENT AND ACCOMMODATION CONTROL (AMENDMENT) BILL, 1953.

Motion to consider (continued).

Sri M. V. RAMA RAO (Tumkur).—On the last occasion on which this Bill was before the House for consideration, the Hon'ble Member from Kolar was pointing out certain difficulties which would arise if this Bill was not suitably amended and he also made the suggestion that the Bill be referred to a Select Committee. When it was pointed out by the Minister who is in charge of this Bill that there was great urgency for enacting this Bill into law, Sri Pattabhiraman also assured the concerned Minister that the Select Committee might be expected to deal with the work of examining and scrutinising the provisions of this Bill during the sittings of this session and not take an unreasonably long time to do so. I do not know whether my friend, the Hon'ble Minister for Law, has made up his mind about this.

Sri A. G. RAMACHANDRA RAO (Minister for Law and Education).—The Hon'ble Member seems to be very anxious to know the mind of the Government. I intend moving for reference to Select Committee.

Sri M. V. RAMA RAO.—Then I am greatly reassured because I can now discharge what I consider to be my duty. I may point out the various provisions which require to be very carefully scrutinised by the Select Committee before this Bill is enacted into law if and when the motion is carried by this House.

Sri B. HUTCHE GOWDA (Turuvekere).—Is it necessary to continue the debate after it is decided to refer the Bill to a Select Committee?

Mr. SPEAKER.—It is left to the Members.

Sri M. V. RAMA RAO.—Sri Pattabhiraman, it will be remembered, was pointing out specifically the

difficulties that would arise if the provisions contained in clause (c) of section 3 and the Explanation to clause (*d*) of section 3 of this Bill remain as they are at present. He was pointing out that the Explanation says : " Where the tenant dies leaving more than one of the relatives specified in this clause, a person deemed to continue as the tenant shall be determined in the following order, *viz.*, (i) the surviving spouse, (ii) the eldest son, (iii) the eldest daughter, (iv) the eldest undivided brother." If I understood Sri Pattabhiraman's objections correctly, he seems to me to have been pointing out that the order of succession or the order of preference indicated in this Explanation and in the clause to this Explanation made a very significant departure from the prevailing Hindu law in force in the State today and therefore it would lead to all kinds of legal complications, difficulties and controversies resulting, not in the removal of the difficulties which the Government have found cropping up in the working of the present Act which is in force, but in an increase of the number as well as the kind of such or similar defects.

Sir, I think Sri Pattabhiraman's apprehensions, if I may say so with due respect to the knowledge of law which I know he possesses, are not well founded because the order of succession in Hindu law which provides for the devolution of proprietary rights or the acquisition of inheritance really has no bearing upon the Law of the House Rent and Accommodation Control since the proprietary right possessed by a tenant under this or any other law would be such as will cease to exist upon the death of the tenant who happens to be in possession. Sri Pattabhiraman knows that one of the modes in which a lease will cease to operate is by the death of the lessee. Here what the Government appear to provide for is that, in case a person who was a tenant of a house or a part of a house dies, the tenancy held by such a tenant should be deemed to continue in one or the other of the following persons taken in the order indicated here. Now, if the person himself was alive and the lease terminated during his lifetime, then, he, in terms of the definition contained here, would still be a tenant. Because he would be a tenant holding over after the expiry of the lease and would still be deemed to be a tenant and dealt with under the provisions of this Bill as a tenant. But where the tenant has died, cases apparently have arisen in which one or the other of the relations of the deceased tenant indicated in this Explanation and in that clause seems to have experienced difficulties which probably have come to the notice of the Law Minister in his capacity as the appellate authority in respect of House Rent Control cases. To me, it seems that the preference given to the surviving widow in the first instance and then to the eldest son and the eldest daughter in the second instance and the eldest undivided brother in the third instance is not at all unreasonable. I think it is a reasonable preference because it is common knowledge that when the master of a family dies and leaves behind a widow and children and an undivided brother or brothers, it is the widow who is the weakest party among the survivors and she is the most liable to be thrown on the streets if the other surviving relations of the deceased person happen to be hard-hearted. Therefore, it seems to me that this aspect of the matter has probably kindled the sympathies of the Government into giving first preference to the surviving persons in the order indicated. It may be argued by Sri Pattabhiraman that the husband's right is in danger if the husband is the surviving relation, where the wife had been a tenant and has died. Well, I do not think that he would raise that point. If the wife happens to be the tenant and the husband happens to be the surviving relative, it may be said that the

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husband is the most helpless creature in this world. (*Laughter*). Therefore, he would still seek the protection of the law and the preference would still be valid. It was pointed out that in the case of an undivided Hindu family the undivided brother who, by right of survival, would step into the shoes of the person who, as a manager of the joint Hindu family, happened to have been the tenant, would be in possession in law, notwithstanding the preference given to others in this clause. That was the point made by Sri Pattabhiraman if I understood him aright. I have found that this clause really makes separate provisions in the case of a tenant who took a house on lease in his own right and in the case of a person who took a house on lease in his capacity as manager or as person acting on behalf of a joint Hindu family. A reading of that clause would perhaps make the thing a little more clear. In clause (*d*) of Section 3 of this Bill, it is said :

> "In clause (9),—(i) after the word 'includes', the words 'the surviving spouse or the son or daughter or, in the case of a joint Hindu family, the undivided brother of a deceased tenant who had been living with the tenant in the house as a member of the tenant's family up to the death of the tenant and' shall be inserted."

Sir, the actual effect of the insertion of these proposed words in the appropriate place in clause (9) would make it read like this. I shall now read clause (9) of Section 2 of the original Act as it will stand amended if this clause is carried :

> "'tenant' means any person by whom or on whose account rent is payable for a house and includes the surviving spouse or the son or daughter or, in the case of a joint Hindu family, the undivided brother of a deceased tenant who had been living with the tenant in the house as a member of the tenant's family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a house by its tenant or a person to whom the collection of rents or fees in a public market, etc."

Now, Sir, it is clear to me at any rate, though I am subject to correction at the hands of those who can throw a little more light on the implications of law, that this clause makes separate provision for the case of a tenant who takes the house on lease for his own use, and for the case of one who takes a house on lease for and on behalf of a joint Hindu family. In the case of one who takes it for his own use and for the use of his dependents, the order indicated in this clause and in the Explanation, namely, the surviving spouse, the eldest son and the eldest daughter, would operate. In the case of a joint Hindu family where the house has been taken by the manager for and on behalf of the joint Hindu family, the preference is given to the undivided brother of a deceased tenant. Separate provision has been made by the use of the word "or" and then the words "in the case of a joint Hindu family, the undivided brother of a deceased tenant etc.". I think it is not likely to create the kind of difficulties which Sri Pattabhiraman apprehends though it is just possible that the eldest son, the eldest daughter and the eldest undivided brother as those following in the order of preference the surviving spouse may quarrel among themselves. But this clarification cannot be expected to eliminate all future litigation or controversies as to the most tenable of the claims of these persons to the tenancy rights. After all, we cannot claim merely by amending the House Rent Control Act to obviate all future difficulties or

ensure that there will be no further litigation in respect of tenancy rights either on behalf of the survivors of deceased tenants or by surviving tenants themselves or by landlords or by other interested persons dealing in house property under this Act. We cannot expect that these amendments, numerous and far-reaching as they are, will ensure that. But I think that the order of preference indicated in this clause is not unreasonable. I shall leave that clause there.

Sir, the first clause which I should like the Select Committee to examine very carefully is clause (*b*) of Section 3 in the Bill. There, it is said:

> "For the purposes of this section—
>
> (i) notwithstanding anything to the contrary contained in clause (4) of section 2, 'house' includes a building or part of a building used or to be used for residential or non-residential purposes;
>
> (ii) any house newly constructed or reconstructed shall be deemed to have become vacant as soon as it is fit for occupation."

Sir, clause 4 of section 2 to which reference is made in this Bill reads in the original Act like this. Clause 4 of Section 2:

> "'house' means, in the areas specified in the First Schedule, any building or part of a building let or to be let separately, for residential or non-residential purposes, and elsewhere, any building or part of a building let or to be let only for residential purposes and includes—
>
> (*a*) the garden, grounds and out-houses, if any, appurtenant to such building, or part of such building and let or to be let along with such building; etc."

Here, I consider that a very important amendment in the definition has been made by the use of the words "used or to be used" instead of "let or to be let only for residential purposes."

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I consider that the change in the definition is so far-reaching that Government would be well-advised to examine whether in the enforcement of this law, they will not be arming the Controller with authority which naturally will lend itself to gross abuse, because a building or a part of a building let or to be let only for residential purposes is absolutely different from a building or a part of a building used or to be used for residential or non-residential purposes. There is all the difference in the world between 'using' a house for residential or non-residential purposes and 'letting' a house for residential or non-residential purposes. Using a house may or may not include letting. If I am the owner of a house, I am entitled to use it by occupying it. I am not bound to let it. Here, the alteration of the definition in the manner proposed will deprive persons who are in a position to construct houses of the right of determining whether they will let the houses to tenants under the provisions of the law governing tenancy rights in houses or whether they will keep the houses for their own personal use. It is no doubt true that Government is under a duty to see that persons who are in a position to construct houses do not do so for selfish or expropriatory motives or construct houses and refuse to let them except on their own terms. I quite concede, I willingly concede that Government have a right to intervene in the larger public interest and see that landlords who are in a position to construct houses and to let them will do so in a reasonable and appropriate manner. But here this definition really knocks the bottom out of whatever may be the residuary right of a landlord under the enactment as it stands at present and as it prevails in the neighbouring

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States. If a person who constructs a house is to be deemed to have constructed a house for the purpose of its being dealt with by the House Rent Controller in the manner laid down in the different clauses of this Bill and the original Act, then I think it would be quite unreasonable to expect that people will come forward to invest money for building houses. I deliberately and quite seriously object to the change in the definition by substituting the words 'used or to be used' in the place of 'let or to be let' contained in the original definition. This, I think, is very important. It should be examined by the Select Committee in all its implications.

Then, part (ii) of clause (1) (b) of Section 3 of the Bill says :—

> "any house newly constructed or reconstructed shall be deemed to have become vacant as soon as it is fit for occupation."

This, Sir, I must say, is so delightfully vague that for a hard-hearted House Rent Controller or for an Officer who is so busy that he cannot find time to do justice, it will afford ample opportunity for harassing respectable persons. It must be remembered that in our country people who build houses are not exclusively the few well-to-do or monied persons who seem to be flourishing in Bangalore and in other big cities by building lots of houses and expecting exhorbitant rent for them and generally managing to secure the most favourable terms for themselves even at the hands of the Officers who administer the House Rent Control Act.

If I may speak from such knowledge as I possess, taking the whole State as one unit, a very large section of those who build houses are the people coming from the poorer sections of society, who construct such houses as they can, at such expense as they can afford; and will consider the house fit for occupation as soon as they can put anything which may be called a roof on what may be called walls. Sir, I myself belong to what I regard as a sufficiently poor section of the population of the State. I should be grateful to have four walls of any kind and any roof over my head so that I may call it my own house and not be liable to be evicted therefrom by a House Rent Controller like the District Magistrate of Tumkur to whose activities I am going to advert presently. Then, when is the house to be deemed to have become vacant? If we define it in the manner provided in clause 3 (1) (b) (ii), "as soon as it is fit for occupation", I ask—fit for whose occupation? The landlord may consider it fit for occupation only after he has satisfied the cravings of his soul for building the house, completing it, painting it and furnishing it in the manner which would satisfy him. A hungry tenant who is anxious to occupy the house because he has no accommodation and is compelled to live in places where housing accommodation is not available, would most certainly regard a half-finished house as absolutely fit for occupation if only he can get into it. This, I consider, is not a satisfactory way of improving the definition. If our avowed object is to remove difficulties which have arisen in the administration of the existing Act and to improve the provisions of the Act by making the law safer for those against whom it is going to be administered, then, this definition, I must say, is not an improvement on the existing provision. I very earnestly suggest that the Select Committee should bestow some thought on what will happen if this clause is allowed to stand as it is contained in the Bill.

Sir, sub-section (2) of Section 3 of this Bill says :—

> "(a) Every landlord shall, within seven days after the house becomes vacant by his ceasing to occupy it, or by the termination of the tenancy or by the eviction of the tenant or by the release of the house from requisition, or otherwise give intimation in the prescribed form of the vacancy to the Controller."

Legislative practices in our country are so varied that I will perhaps be justified in saying that what requires to be prescribed under the Act must either be actually prescribed or must be so fairly and reasonably and certainly indicated that there is no possibility of persons being put in the wrong for no fault of theirs. Now, so far as I am aware, no particular form is prescribed under this Act for giving intimation under this clause specifying the particulars that are to be given in furnishing the intimation. The effect of this will be to create further difficulties for the person who has been unwise enough to construct a house not intended for his own use, because it is always possible to put a landlord in the wrong about furnishing the required particulars as long as it is nowhere laid down what exactly are the particulars such an intimation should contain. The practices seem to vary from place to place as to the particulars which would satisfy the particular House Rent Controller. This prescribing of the form is a thing which should be done by way of a schedule or an annexure or something in the Act itself. As a matter of fact, in all important enactments of this kind, it will be found that where things are required to be done in a certain formal manner or particulars are required to be furnished in a certain manner, the forms in which they should be done are also indicated at the end of the Acts concerned. For instance, in the Town Municipalities Act or other similar enactments, we always find a number of annexures giving different kinds of forms in which the information is required to be furnished or notices are required to be published or other things done. The next part *i.e.*, Section 3 (2) (b) goes on to say :

"(b) Nothing in clause (a) shall apply to a house—

(i) in respect of which the landlord has obtained an order for possession on any of the grounds specified in sub-section (3) of section 8, or

(ii) which has been released from requisition for the occupation of the landlord or of his son or daughter, or father or mother or in the case of a joint Hindu family, his undivided brother, or

(iii) which has been newly constructed or reconstructed for the occupation of the land lord or his son or daughter or father or mother or in the case of a joint Hindu family, his undivided brother :

Provided that if the landlord or his son or daughter or father or mother or undivided brother, as the case may be, does not occupy the house within two months from the date of obtaining possession or the completion of construction or reconstruction, as the case may be, the landlord shall immediately after the said period of two months give intimation of the vacancy to the Controller in accordance with the provisions of clause (a) and for this purpose the house shall be deemed to have become vacant on the date of the intimation."

I think my friend Sri Pattabhiraman did not point out the difficulties that might conceivably arise under these clauses if they are enacted into law. I find that my friend, the Hon'ble the Minister for Law who is in charge of this Bill, has been unreasonably unmindful of the claims of the wife or sister or other dependents. I ask why it should not be a wife or sister or some other dependent who can be entitled to the privileges which are envisaged in these clauses; why should not a house which has been released from requisition for the occupation of the landlord or his wife or his sister or other dependents be also exempted from the application of clause (a) of sub-section (2) of section 3 of this Bill. I really do not see that these omissions could have been made on any principle. It is probably oversight. I cannot fancy that

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the Government intended to be unkind to a wife or a sister or other dependent. So I would suggest that the Select Committee might be a little more sympathetic and exempt from the operation of the earlier clause a house which has been released from requisition for the occupation of not only the landlord or his son or daughter but also his wife or sister or other dependent.

Part (c) of the sub-section goes on to say:

> "If the intimation given under clause (a) is, in the opinion of the Controller, materially defective, he may, within seven days from the date of receipt of such intimation direct the landlord to give a true and correct intimation in the prescribed form and the landlord shall comply with the direction of the Controller within four days from the date of receipt of the communication from the Controller."

Is it not desirable that the intimation or the information which a landlord has to furnish to the Controller should be set down in a form by way of appendix or something to this Bill, because while a period of seven days is all that is available to a landlord for furnishing the intimation in the prescribed form of the vacancy to the Controller, if the Controller considers that the intimation is in his opinion materially defective, the landlord will get just four days from the date of the receipt of the communication to give the required particulars in the prescribed manner to the House Rent Controller? Would it not be better both from the point of view of saving the time within which such intimation should be given and from the point of view of saving the trouble to the landlord who has to furnish the information in addition to giving up his proprietory rights over the house, to prescribe what particulars exactly should be furnished and in what form? That, I think, would be the proper way of dealing with this matter.

Then clause (a) of sub-section (3) of section 3 of this Bill says:

> "On receipt of the intimation under sub-section (2), the Controller shall, taking into consideration any representation made by the landlord and after making such inquiry as he considers necessary, select the State Government or the Central Government or the Government of any other States in India, or any local authority or any Educational or other public institution or any officer of any Government, authority or institution, aforesaid, or any other person (hereinafter referred to as the 'allottee')' to be inducted as a tenant in the house and direct the landlord by a written order (hereinafter referred to as the "allotment order") to let the house to such allottee at such rent as shall be specified in the allotment order and to deliver possession of the house....."

To me it seems that this is a very considerable widening of the powers of the Controller under the House Rent Control Act. It would be useful to compare the powers proposed to be conferred on him under this clause of the Bill with the powers now conferred on him by the relevant clause of the original Act which deals with the powers of the Controller. The object of this Bill is to substitute three sections in place of the existing one as has been stated at the very commencement of section 3: "For section 3 of the principal Act, the following sections shall be substituted:" Therefore, the original section 3 of the Act as it now stands will entirely disappear and the new sections 3, 3A and 3B will take its place. Under the existing law, this is what the Controller can do.

> "If within ten days of the receipt by the Controller of a notice under sub-section (2), the Controller does not intimate the landlord in writing that the house is required for the purposes of the

State Government or of the Central Government or of the Government of any other State or of any local authority or public body, or of any educational or other public institution or for the occupation of any officer of any Government, authority or institution aforesaid, or for the occupation of any other person for such period as shall be specified in the notice and that the possession of the house shall be delivered to the Government, authority, body, institution, or person concerned, the landlord shall be at liberty to let the house to any person, or if the Controller, on application made by the landlord, permits the landlord to do so, to occupy the house himself : "

The material departure here is that while under the existing law, if the Controller within ten days from the receipt of the intimation does not intimate the landlord that the house has been allotted for the use of a particular tenant, the tenant being a Government institution or an officer of Government or a public body or any other person, the landlord will be at liberty to let the house to such tenant as he deems fit ; in the Bill before us the process is exactly the reverse . " On receipt of the intimation under sub-section (2) the Controller shall, taking into consideration any representations made by the landlord and after making such enquiry as he considers necessary, select the State Government or the Central Government or the Government of any other State, etc., or any other person, hereinafter referred to as the ' allottee ', to be inducted as a tenant in the house—" I must confess I am not quite clear as to the exact meaning of the word ' inducted'. If my friend, the Law Minister would care to explain that word to me, I will be grateful to him.

Sri A. G. RAMACHANDRA RAO.—At this stage, as I have already pointed out, I see the necessity for taking up this Bill to the Select Committee.

Mr. SPEAKER.—You are proposing to refer this to the Select Committee ?

Sri A. G. RAMACHANDRA RAO.—Yes.

Sri M. V. RAMA RAO.—I am rather surprised at the curious explanation of the Law Minister. I was really asking for information as to the exact meaning of the word " inducted ".

Sri A. G. RAMACHANDRA RAO.—The whole thing could be thrashed out at the table and errors corrected.

Sri M. V. RAMA RAO.—The Bill could not only be thrashed on the table but it could also be torn into pieces as one of my friends said ; it can certainly be torn into pieces because it is a paper. That is not exactly the way of dealing with it and I can assure my friend that if he is in such a great hurry that no speeches should be made on the Bill and that it should go before a Select Committee without any Member pointing out which are the clauses that need more careful scrutiny than the others, I think he has not caught the spirit in which I am making these observations.

What I was saying is that after having taken the trouble to categorise all the different kinds of persons and authorities who may be regarded as tenants to whom the house may be allotted to retain the old expression " or any other person," does not appear proper. I just do not see why, after having particularised all these persons and categories, the definition should still use the expression " or any other person ". It is certainly exhaustive as my friend Sri Narayanaswami pointed out. It is also very exhausting as I shall make it clear to the House by citing an instance of how the provisions of this Act are useful to an officer who is minded to help himself or to help somebody else and who will not hesitate to let the house to any person without regard

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to the other provisions of the law. Therefore, I say it is necessary for us to be quite precise in indicating the scope of the authority conferred by this Act. If it says "or any other person whom he thinks fit", there are very curious ways in which persons have been considered as entitled to secure accommodation by the application of the law of House Rent Control and also by the application of another law which still survives though the purposes for which it was enacted have long ago disappeared.

2 P.M.

I should like to bring to the notice of the House an instance of gross misuse of the authority vested in him by the District Magistrate, Tumkur District. Sir, that was the subject-matter of an interpellation which I had sent in the October Session of this Assembly. The interpellation was not answered during the course of the session. The answers to that interpellation, so far as I am aware, have not been furnished even till today. If the answers have been laid on the Table of the House on the opening day of the Budget Session during this year, I have not had the means of satisfying myself that those answers were intended for my information.

What the District Magistrate of Tumkur did was this. In Tumkur Town, on the Bangalore-Honnavar Road, an old-fashioned bungalow belonging to an advocate known to many Members of our legislature by the name of Sri C. Lakshman Rao, was sold by Sri Lakshman Rao to a person known as Sri Sriranga Setty who is a jeweller in Tumkur Town and who is a respectable citizen, a law-abiding citizen and who pays, so far as I know, income-tax to the Government to the extent of ten or twelve thousand rupees and sales-tax to our Government to an equal extent. This bungalow was sold by Sri Lakshman Rao to this jeweller some time at the end of the year 1951. Sri Lakshman Rao who was a practising advocate agreed to vacate the house as soon as the Courts closed for the summer vacation and that was about the end of the month of March 1952. After he vacated this house, the person who had purchased it, Sri Sriranga Setty, obtained possession of the house from Sri Lakshman Rao, who came away to live in Bangalore from Tumkur. After this the then District Magistrate of Tumkur District, Mr. Abu Baker, issued an order of allotment of this house for the personal use of Sri Sriranga Setty on the ground that he having many sons who were married and were living with him in a joint family in the same residence, found the house in which he was living not sufficiently commodious for their occupation and had actually purchased this house with a view to improve it and make it fit for his own personal occupation together with the other members of his family. This order of allotment to Sriranga Setty of the house purchased by him was duly made in the manner laid down in the House Rent Control Act by the then District Magistrate of Tumkur, Sri Abu Baker. This house, as I already mentioned, was a very old fashioned house and needed many material alterations and modifications before this person could make it fit for his use, and the time that he took to decide upon those improvements probably amounted to a month or two or thereabouts. Then, when he had pulled down some of the old walls and was actually engaged in making and effecting improvement and repairs to the house, an order was served on him on a Friday by a Police Constable. This was some time in the month of September 1952. The order was to the effect that the District Magistrate, in exercise of the powers vested in him under Rule 75 (*a*) of the Defence of India Rules empowering him to requisition property for purposes for which the Defence of India Rules are intended, had requisitioned this house and

allotted it for the use of the District Forest Officer in Tumkur Town, who was already living in another house in a different part of the town. The District Superintendent of Police was directed to take possession of this House from the owner and to hand it over to the person who was intended to be the tenant of this house, not under the House Rent Control Act, but under the Defence of India Rules. Sriranga Setty, as his name would indicate, is a Vaisya gentleman and he is not particularly known for any great qualities of courage or resistance. Being greatly in fear of persons in authority, he did not know what to do and went to his lawyers and asked them to assist him. They told him : "You have got an order of allotment in your own favour; probably there is some mistake; go and make a representation to the District Magistrate". Then he met the District Magistrate the next morning which happened to be a Saturday. He went to the office and made a representation to the District Magistrate that this house had been actually allotted to him for his own personal use by an equally competent authority on appropriate grounds. The District Magistrate told him that he might present a petition containing that representation and that he would look into it. This petition could be presented to the District Magistrate only on the succeeding Monday. This gentleman, this owner of the house, found that his premises, which he had locked up as soon as the notice had been served on him by the Constable, had been actually taken possession of by the Police authorities and a Police Constable, in uniform was posted on the premises as sentry to prevent the owner from entering upon his own premises. Then, on the Monday which followed this Saturday, he and his advocate went to the District Magistrate and presented a petition making the representation that this house was not available for allotment because it already formed the subject matter of an allotment made in favour of the owner himself. When that petition was presented, the District Magistrate kept it with him, passed no orders and did nothing. While the owner of the house and his advocate were still in the Court Chamber of the District Magistrate, the Police Sub-Inspector sent word to this person to hand over the keys of the house so that possession could be delivered to the allottee. This person represented to the Sub-Inspector that he was actually engaged in getting rectified an obvious mistake and if he did not succeed, he would naturally hand over the keys as he was bound to obey the District Magistrate. Even before this person, this respectable citizen, could succeed in engaging the attention of the District Magistrate to the extent of having the petition placed before him, the Police authorities went to his house, broke open the lock of the house by about 12 or 12-30 during day time and possession of the house was handed over to the Range Forest Officer of Tumkur on behalf of the District Forest Officer, Tumkur District. The Police Constable in khaki uniform, who had been posted there on sentry duty to terrify the owner of the house on Friday and on Saturday and on Sunday and part of Monday, was replaced by a Forest Guard in a red turban and khaki uniform. The District Forest Officer, who was the actual allottee of this house moved into it from the other house which, in my opinion and in the opinion of others who could judge his requirements, was good enough for him. He not only moved into this house with his family and his belongings, but also with his pigs, poultry, sheep, ducks and geese, and without caring for the sentiments of the person who owned the house or of the person who had been occupying it previously or of the persons who had the fortune or misfortune to be his neighbours, living on either side of the house and behind the house, he lived there in just the manner he pleased. After this

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happened, the owner made repeated pilgrimages to the District Magistrate's office in order to find out what relief would be given to him and after more than a week of this dancing of attendance upon him, the District Magistrate told him : "You may go in appeal from my order if you will." That is the way he handled the matter. Then that person came to me and told me the facts of the case and asked me whether I would take up this matter and prefer an appeal before the Government. Probably he thought that since I was a Member of the Legislative Assembly and also happened to be an advocate, my appearing for him in an appeal of this kind before the Minister for Law . . . .

Sri J. MOHAMED IMAM (Jagalur).—May I bring to your notice, Sir, that the tractors working in the Residency grounds are creating much noise and we are not able to hear the proceedings of the House properly ? Would you kindly see that it is stopped at least during the hours in which the session is held ?

Sri KADIDAL MANJAPPA (Minister for Revenue and Public Works).—I will see whether the noise can be stopped.

Sri M. V. RAMA RAO.—I declined to accept that engagement and told the gentleman that I preferred to deal with the matter as a public question, as a question of the right of the citizen against the administration, of his right to expect a Rule of Law instead of a Reign of Terror at the hands of authorities acting under a Democratic Government. I advised him to take his appeal to some other advocate of his own choice. I understand he preferred an appeal before the Government, before my friend the Minister for Law, through some advocate. Now, I do not know what happened to that appeal. But what I wish to bring to the notice of the House is, that, while a democratic government is responsible for the administration of the country, while this House Rent Control Act is in force and while an actual order of allotment by a competent District Magistrate has been made enabling the owner to use his own house, it has been possible for a District Magistrate to resort to the provisions of the Defence of India Rules and apply Rule 75-A in order to requisition this house and allot it for the occupation of a person who did not really require the accommodation since he was already living in a house which was good enough for him ? I should like to invite the attention of the House to the fact that this house was purchased for Rs. 30,000 by a registered sale deed. Under the House Rent Control Act, the rent for a house could reasonably go to the extent of four per cent on the investment. It would be Rs. 1,200 a year. That would be Rs. 100 a month. This Officer might be drawing a salary of Rs. 300 or Rs. 350 per month and he certainly was not in a position to pay Rs. 100 rent and the order of the District Magistrate in making this House available to the District Forest Officer was not meant to give a house fit to be occupied by him. This I am pointing out in order to bring to the notice of the House that merely enacting a law by means of clauses like these which look to be satisfactory to us is not sufficient. We should also take adequate care to see that loopholes do not exist in the wording which will enable officers like the District Magistrate of Tumkur to ignore the House Rent Control Act and resort to the Defence of India Rules instead. Now, Sir, everybody who has had occasion to read the Defence of India Rules and the Defence of India Act as they were applied to the country at large knows that the authority to requisition property under Rule 75-A is properly confined to the purpose of requisitioning the property for maintaining supplies and services essential to the life of the community or for the efficient prosecution of the war as long as the war lasted. After the war was over, though the Defence of India

Rules still survive, it cannot be pretended that the requisitioning of the house under the Defence of India Rules was necessary for the efficient prosecution of the war nor can it be claimed that requisitioning of the property was necessary for the purpose of maintaining supplies and services essential to the life of the community. Sir, I should like to know what explanation, if any, the Government have obtained from the District Magistrate of Tumkur in respect of this particular case, as to why he resorted to the provisions of the Defence of India Rules instead of acting under the House Rent Control Act. Was it that he found that the order which had been passed by his predecessor in office over which he could not sit in judgment, could not be varied because grounds did not exist and therefore he resorted to the Defence of India Rules? It would have been exceedingly satisfactory if Government had furnished the answers to my interpellation on this subject which, as I said I had sent for the October Session of this Assembly. I owe it to the Government to acknowledge that, as soon as this matter came to their notice, probably when the answers to the interpellation were put in their hands for their approval, I suppose they found that the action taken by the Deputy Commissioner was preposterous and they rectified the matter immediately by getting the house vacated and possession of it restored to the owner of the house. Perhaps also, the landlord of the house is deeply grateful to the Government for having recognised his right as a citizen. I have a duty to point out to the Government that while it is certainly important that Government should stand by the prestige of their officers, it is equally necessary for the Government—especially a democratic Government, —to be mindful in an equal measure of the prestige of respectable and law-abiding citizens in the State. The prestige of the District Magistrate is important to the Government. The prestige of the citizen is important to the citizen and without the citizen one does not need a Government. If it is not for the citizen's benefit I do not really understand why we want a Government at all! If the Government did not think it fit to make a public acknowledgment of the error of this particular District Magistrate, they have done themselves a disservice. It would have been the most appropriate thing for them to have answered me on the floor of the House in a straightforward manner by giving a reply to the question which I had sent. If the reply was in their hands and the District Magistrate's action was not correct and they disapproved of it, well, they could have assured the House that the citizen's rights would be safeguarded in order that such errors may not be repeated by their officers. Such an assurance would have had the most salutary effect upon the tendency for misuse of authority which has grown up with the years of service put in by officers of that type. It is to prevent such abuse of power under the law in force by District Magistrate—I hope there are not many more of that kind in our State—that a careful scrutiny of the Bill is necessary. I do not mean to say that my distinguished friends, who will be the members of the Select Committee to which this Bill will be referred, will not find time to go into the details of all the clauses. But I do mean to say that while they may do so, it is equally my duty to point out that these are the clauses to which their particular attention must be given. On page 7, Section 3(8) says:

> "(8) (*a*) The Controller or any prescribed officer may summarily dispossess any landlord who fails to deliver to the allottee concerned possession of any house in respect of which such allottee is deemed to be the tenant by virtue of this section and take possession of the house including any portion thereof in the occupation of any person and deliver possession thereof to the allottee concerned;

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and thereupon notwithstanding anything contained in sub-section (4), the allottee concerned shall be deemed to be the tenant of the landlord with effect from the date of delivery of possession of the house to such allottee."

Sir, this provision did not exist in the original Act. This new clause is ostensibly an improvement upon the powers of the Controller in respect of taking possession of a house. As I have described what was done by the District Magistrate of Tumkur even without such authority, we can easily imagine for ourselves the probable results of empowering a District Magistrate with statutory authority to summarily dispossess any landlord who fails to deliver to the allottee concerned possession of a house in respect of which such allottee is deemed to be the tenant by virtue of this section, and to take possession of the house including any portion thereof in the occupation of any person and deliver possession thereof to the allottee concerned. I am not holding a brief for people who build houses for the use of tenants. I am rather in sympathy with persons who build houses to live in for themselves and my desire will be, so far as it lies in my power, to be helpful to the Government in passing legislation suitably for all these persons. But this kind of authority for a District Magistrate, I think, is not necessary. After all, merely because we have got a Democratic Government or the Party which runs the Government has the satisfaction that it has got a comfortable majority, it does not mean that it is the duty of the Government or of the party to stand by everything that is done or omitted to be done by every one of their officers all over the State. It does not mean that merely because my good friend Sri A. G. Ramachandra Rao happens to be the Minister for Law, everything that is done by the Department of Law or the Officers of the Law Department or everything that is done by the Department of Education or by the school teachers—such as primary school teachers who go away and never come back in spite of Gazette Notification—is all right and that he should be in a hurry to uphold the dignity and prestige of the officers concerned at the expense of the citizens of the State. That is, in my opinion, taking an absolutely wrong view of the whole question. The proper approach, in my opinion, is to be exceedingly vigilant about how for power conferred upon officers under various enactments of law are actually used by them for the purposes for which they have been conferred upon them. That is the duty of a Democratic Government. It is not the duty of the Government to patch up things and go to the rescue of officers who go wrong or incur unauthorised expenditure or do unlawful acts ostensibly in the name of authority. But it is most certainly the duty of the Government to make erring officers feel and know that they have done wrong.

A MEMBER.—Is the Government democratic ?

Sri M. V. RAMA RAO.—That is your duty. I leave it to the Opposition. If you are helpless and if you plead helplessness, I will come to your rescue. You may depend upon that.

2-30 P.M.

(*Interruption*).

My co-operation will be with the Government to rule the country well. This Opposition does not possess the vitality to correct the Government. They are so inattentive, inefficient and unmindful of their duties as legislators who are sitting in opposition to the Government of the country.

Sri B. HUTCHE GOWDA.—Brute majority comes in our way.

(*A Voice* : *Why don't you join us* ?)

Sri M. V. RAMA RAO.—If there is no place for people of my type in the Congress party, I will certainly join you.

On page 8 of the Bill:

"No appeal shall lie against any action of the Controller or the prescribed officer under this sub-section."

What is to be the remedy for the person against whom an unjust act has been done by the House Rent Controller?

"No appeal shall lie against any action of the Controller or the prescribed officer under this sub-section."

That no appeal should lie against this summary dispossession of the house is, I think, wholly unwarranted. Why should not there be an appeal? Why should Government legislate making all orders of the District Magistrate, acting as House Rent Controller, final so far as the summary dispossession of the house is concerned?

Sri A. G. RAMACHANDRA RAO.—Now the Deputy Commissioner or the District Magistrate is not the House Rent Controller. It is a judicial officer appointed by the High Court. As against his orders there is the District Judge....

Sri A. BHEEMAPPA NAIK (Molakalmuru).—There is no appeal.

Sri A. G. RAMACHANDRA RAO.—There is appeal.

Sri S. SRINIVASA IYENGAR (T.-Narasipur).—No; the present Bill says so.

Sri A. G. RAMACHANDRA RAO.—Previously there was no appeal. Now the Rent Controller is not the District Magistrate and there is provision for appeals.

Sri M. V. RAMA RAO.—What is stated on page 8 is: "No appeal shall lie against any action of the Controller .." Why should no appeal lie? What is the principle of it? Do the Government suggest that the wisdom of this House Rent Controller is final and should not be subject to any appellate scrutiny? Why should they feel that the House Rent Controller's wisdom is so abundant that no appeal need lie to any higher authorities? I do not think this is a reasonable provision at all. I think the proper thing will be to provide for an appeal in the usual course as is provided for in other matters.

Mr. SPEAKER.—Sri Rama Rao has taken more than an hour.

Sri M. V. RAMA RAO.—I have actually done. I was trying to recollect one more point. The Hon'ble the Law Minister has said that the Controller under this Act is not the District Magistrate but the District Judge, if I heard him aright.

Sri A. G. RAMACHANDRA RAO.—That is not what I said. Now the Rent Controller is a judicial officer appointed by the High Court and from the orders of that Rent Controller there is an appeal to the District Judge. The District Judge is not the Rent Controller.

Sri M. V. RAMA RAO.—I must confess I am not aware who actully performs the duties of the Rent Controller. When the District Magistrate was the House Rent Controller it was his Personal Clerk or Personal Assistant who actually performed those duties and got the orders of allotment made. As a matter of fact, when the House Rent Control Act was enacted in the form of an Order,—the House Rent Control Order, I know in Tumkur District itself—Tumkur District is very unfortunate in respect of this House Rent Control business .....

Mr. SPEAKER.—The order would be signed by the District Magistrate but not by the clerk.

Sri M. V. RAMA RAO.—Orders are signed all right by the District Magistrate. I do not know who writes the orders. Anyway I am pointing out the hardships experienced. I had occasion to send notice of a question to the Representative Assembly in respect of the manner in which the District Magistrate, functioning as House Rent Controller, was allowing this power to be exercised by somebody else. What was then happening was that his Personal Assistant used to requisition houses whenever they fell vacant

(SRI M. V. RAMA RAO.)

and chose the best among them for himself and his friends keeping the other applications on a waiting list without making any order of allotment. That made it necessary to send a question regarding the work of the House Rent Controller. That is a separate thing. Therfore, if it is a District Magistrate who functions as House Rent Controller under the Act, then the exercise of powers by him is liable to these different kinds of misuse and abuse of authority. Whenever he finds that this Act does not enable him to act in a manner which would be desirable to himself but which would not be legal according to this Act, this Act does not prevent him from resorting to other ways.

I should like to know from the Government why they want the Defence of India Rules to remain in force still. What are the extraordinary emergencies that they think exist justifying the continuance of those provisions of law even after the necessity for them has disappeared? Now I should like to suggest that while the Select Committee proceed to examine the clauses of this Bill they should concentrate upon enabling law-abiding citizens to get a fair deal at the hands of whoever may pass orders under this House Rent Control Act.

Mr. SPEAKER.—Has the Hon'ble Law Minister anything to say?

Sri A. G. RAMACHANDRA RAO.—I have already submitted that this will have to go before the Select Committee, but before the consideration motion is adopted, I wish to make a few remarks.

In the first instance, the case referred to by the Hon'ble Member, as stated by him—that is not what has happened. I was under the impression that the whole thing has been set right; now I find that it has not been set right. I have called for the papers. But in this connection we may remember that this is a case coming not under this Act but under the Defence of India Rules and in the absence of the Rules before us, I do not wish to go further.

Next, regarding this House Rent Control Act, this is a temporary enactment for controlling the use of available houses. At one time we felt whether we should withdraw the Act itself; but, so long as there is short supply of houses, it is not possible to withdraw the Act. Therefore the Act should continue for a further period.

An Hon'ble MEMBER.—How many years?

Sri A. G. RAMACHANDRA RAO.—It will have to be extended for another 5 years, up to 1957. But, meanwhile, that it is causing hardship to the tenants and inconvenience to the landlords is being generally felt. We have looked into a number of cases before the courts, especially in Bangalore.

Sri P. R. RAMAIYA (Basavangudi).—Now every control order is being relaxed; why not relax this order as well?

Sri A. G. RAMACHANDRA RAO.—I have adverted to that. There is short supply of houses; hence the necessity for the continuance of this Act. Therefore this Bill is before us as a result of the various decisions in courts, representations by advocates and also the landlords and tenants. As far as possible, we want to remove the difficulties and hardships and in that form, based on as much information as we could gather, the Bill has been placed before the House and the amendments proposed satisfy many requirements; but, unfortunately, in view of the discussions we had, I see there are yet some more difficulties.

One Hon'ble Member, Sri K. Pattabhiraman, drew my attention to the legal rights and liabilities under the Act. When there is a devolution of rights, there should be devolution of responsibilities also. I see the point. However reasonable it might be and humane it might be, in the way that we have thought,—the devolution of the liabilities has been put by

us in a different form from what it is under law,—perhaps it might cause hardship.

Regarding one or two points raised by Sri Puttaswamy also I feel there is difficulty. In view of all this I have absolutely no hesitation to refer this Bill to a Select Committee. Before doing so, I submit that the motion for consideration be adopted.

Sri R. ANANTARAMAN (Chamarajpet).—The Hon'ble Minister said that District Magistrates are still allotting houses under the Defence of India Rules, under Section 75. There cannot be dual authorities.

Sri A. G. RAMACHANDRA RAO.—So long as there are the Defence of India Rules, we cannot help it, and how to reconcile the two we will consider that also.

Sri M. V. RAMA RAO.—If the Government are satisfied that the District Magistrate should resort to the application of the Defence of India Rules, I feel he should do so only in extraordinary cases.

Sri A. G. RAMACHANDRA RAO.—I appreciate the point raised by the Hon'ble Member and I will bear it in mind.

Mr. SPEAKER.—The question is :

" That the Mysore House Rent and Accommodation Control (Amendment) Bill, 1953, be taken into consideration."

The motion was adopted.

Motion to refer.

Sri A. G. RAMACHANDRA RAO.—I beg to move :

" That the Mysore House Rent and Accommodation Control (Amendment) Bill, 1953, be referred to a Select Committee consisting of the following members, with a direction to report within three days :

Because there is so much demand, and urgency for a measure of this kind in order of obviate and remove the difficulties that are persisting, I submit that the Housing will agree to the report being submitted within three days. I recommend that the following members may be put on the Select Committee :

Sriyuts.—

R. Anantaraman.
B. P. Nagaraja Murthy.
B. Narayanaswamy.
V. Masiyappa.
G. A. Thimmappa Gowda.
K. Pattabhiraman.
B. T. Kemparaj.
T. C. Basappa.
and M. V. Rama Rao."

Mr. SPEAKER.—Motion moved :

" That the Mysore House Rent and Accommodation Control (Amendment) Bill, 1953, be referred to a Select Committee consisting of the following members, with a direction to report within three days :

Sriyuts.—

R. Anantaraman.
B. P. Nagaraja Murthy.
B. Narayanaswamy.
V. Masiyappa.
G. A. Thimmappa Gowda.
K. Pattabhiraman.
B. T. Kemparaj.
T. C. Basappa.
and M. V. Rama Rao."

Sri M. V. RAMA RAO.—I request that I may not be put on the Committee.

Mr. SPEAKER.—You have enlightened the House on so many points.

Sri M. V. RAMA RAO.—I feel I will not be able to throw any further light. I do not say this in a spirit of non-co-operation.

Sri A. G. RAMACHANDRA RAO.—One other name may be included. The Opposition Leader has suggested Sri S. Srinivasa Iyengar.

Mr. SPEAKER.—The question is :

" That the Mysore House Rent and Accommodation Control (Amendment) Bill, 1953 be referred to a Select Committee

(MR. SPEAKER.)

consisting of the following members, with a direction to report within three days :

Sriyuts.—

1. R. Anantharaman.
2. B. P. Nagaraja Murthy.
3. B. Narayanaswamy.
4. V. Masiyappa.
5. G. A. Thimappa Gowda.
6. K. Pattabhiraman.
7. B. T. Kemparaj.
8. T. C. Basappa.
9. S. Srinivasa Iyenger."

The motion was adopted.

Mr. SPEAKER.—According to Rule 56, the Minister for Law will also be a Member of the Committee. Under Rule 57, I appoint the Law Minister as Chairman of the Select Committee.

MYSORE VILLAGE OFFICES (AMENDMENT) BILL, 1953.

Sri KADIDAL MANJAPPA (Minister for Revenue and Public Works).—Sir, I beg to move :

"That the Mysore Village Offices (Amendment) Bill, 1953, as reported by the Select Committee, be taken into consideration."

Sir, on a previous occasion, at the stage of consideration, it was pointed out by several members that some of the clauses of the Bill will work as a great hardship and therefore some of the clauses require modification. With the object of reducing the hardship, the Select Committee have unanimously sent up this report. In the original Bill, Clause (1) of Section (2) reads like this :

"Provided that the Deputy Commissioner or Assistant Commissioner may, if satisfied that there is a *prima facie* case of misconduct against any holder of a village office, place such holder under suspension till the disposal of the case or until further orders."

The Select Committee have modified the clause and confined the occasions when a Deputy Commissioner can keep the village officer under suspension. It is only in two cases, *i.e.*, for cases of misappropriation and for misconduct of grave nature. Further, the Select Committee have thought it fit to empower only the Deputy Commissioner and the Assistant Commissioner to take action under this clause.

Next coming to Section 3, it was provided in the original Bill that the village officer must own landed property of value not less than twice the annual *jamabandi* or that he should furnish cash security not less than one-fourth of the annual *jamabandi*. These provisions were considered by the Select Committee as very harsh and therefore, they have modified the clause. Now under the clause as modified by the Select Committee, the discretion is left to the Deputy Commissioner to call for security from a village officer in case he finds from the conduct of the village officer that such a course is necessary. The Bill is so amended by the Select Committee that is very harmless and under these circumstances I commend the measure for the acceptance of the House.

Sri B. HUTCHE GOWDA (Turuvekere).—What are the improvements made by the Select Committee?

Sri KADIDAL MANJAPPA.—There are a lot of improvements made. In the original Bill the Deputy Commissioner, the Assistant Commissioner and the Amildar were authorised to keep a village officer under suspension when there was a *prima facie* case of misconduct. The word 'misconduct' is not very clear. Therefore the Select Committee have modified that clause and confined the occasions when the officer can take action to only cases of misappropriation and other cases of misconduct of grave nature, and that only the Deputy Commissioner or the Assistant Commissioner are authorised to take action and not the Amildar.